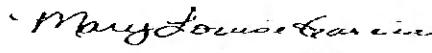


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Official Public Records

  
Mary Louise Garcia**Tarrant County Texas**

1/24/2011 1:42 PM

**D211019323**PGS 7 \$40.00  
Submitter: ACS

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Horvath Towers, LLC  
312 W. Colfax Avenue  
South Bend, Indiana 46601

TY 10001893  
TY 12867-A

**THIRD AMENDMENT TO**  
**COMMUNICATION SITE LEASE AGREEMENT**  
**AND FIRST AMENDMENT TO AMENDED AND RESTATED**  
**MEMORANDUM OF AGREEMENT**

**THIS THIRD AMENDMENT TO COMMUNICATION SITE LEASE  
AGREEMENT AND FIRST AMENDMENT TO AMENDED AND RESTATED  
MEMORANDUM OF AGREEMENT** (this "Amendment") is made and entered into as of  
Dec. 14th, 2010 by and between the City of Westworth Village, Texas, a Texas municipality,  
having an address of 311 Burton Hill Road, Westworth Village, Texas, 76114 ("Lessor"), and  
Horvath Towers, LLC, a Delaware limited liability company, having an address of 312 West  
Colfax Ave., South Bend, Indiana 46601 as successor-in-interest to MetroPCS Texas, LLC, a  
Delaware limited liability company ("Lessee").

*WITNESSETH:*

WHEREAS, the Lessor and Lessee are parties to that certain Communications Site Lease  
Agreement dated August 3, 2006, as amended by that certain First Amendment to  
Communications Site Lease Agreement dated March 23, 2009, and further amended by that  
certain Second Amendment to Communications Site Lease Agreement dated July 16, 2009  
(collectively, the "Lease"), whereby Lessor leases to Lessee an approximately 25' by 75' (1,875  
square foot) parcel along with any easements over other portions of Lessor's real property  
necessary for Lessee's access and utilities to the lease area (collectively, the "Premises"), to  
install, operate, and maintain a communications facility and other improvements;

WHEREAS, to evidence the Lease, a Memorandum of Agreement was recorded August  
17, 2006 in the office of the Tarrant County Clerk as Instrument No. D206256425, as amended  
and restated by that certain Amended and Restated Memorandum of Agreement dated July 16,  
2009, recorded July 28, 2009 in the office of the Tarrant County Clerk as Instrument No.  
D209200490 (together, the "Memorandum"); and,

WHEREAS, an as-built survey of the Premises performed by SMW Engineering Group, INC., dated September 2, 2010 (Project No. 10-0607), reveals that the Premises is not situated as described in the Lease and Memorandum; and

WHEREAS, the parties desire to enter into this Amendment to amend the Lease and Memorandum to accurately describe the location of the Premises;

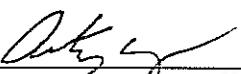
NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties obligate and bind one another, their heirs, successors and assigns as follows:

1. Exhibit "A". Exhibit "A" to the Second Amendment and the Memorandum are hereby deleted in their entirety and replaced with a new Exhibit "A", which exhibit is attached hereto and incorporated by reference herein, and the parties hereby agree that the Premises is the property described on Exhibit "A".
2. Incorporation of Lease. All other terms and conditions of the Lease are incorporated herein by reference. In the event of a conflict between the terms hereof and the terms of the Lease, the terms of this Amendment shall control.
3. Ratification. Except as expressly amended or modified herein, all of the terms, covenants and conditions of the Lease, including and incorporating those as amended herein, shall remain unchanged and in full force and effect; and the Lease and Memorandum, as herein amended and modified, are hereby ratified and confirmed.

WITNESS the following signatures and seals:

Lessor:

CITY OF WESTWORTH VILLAGE,  
a Texas Municipality

By:   
Name: ANTHONY YEAGER  
Title: MAYOR

Lessee:

HORVATH TOWERS, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Jacqueline L. Stout, President

WHEREAS, an as-built survey of the Premises performed by SMW Engineering Group, INC., dated September 2, 2010 (Project No. 10-0607), reveals that the Premises is not situated as described in the Lease and Memorandum; and

WHEREAS, the parties desire to enter into this Amendment to amend the Lease and Memorandum to accurately describe the location of the Premises;

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3. Ratification. Except as expressly amended or modified herein, all of the terms, covenants and conditions of the Lease, including and incorporating those as amended herein, shall remain unchanged and in full force and effect; and the Lease and Memorandum, as herein amended and modified, are hereby ratified and confirmed.

WITNESS the following signatures and seals:

Lessor:

CITY OF WESTWORTH VILLAGE,  
a Texas Municipality

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Lessee:

HORVATH TOWERS, LLC,  
a Delaware limited-liability company

By: \_\_\_\_\_  
Jacqueline L. Stout, President

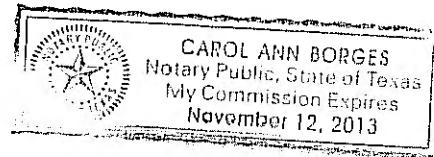
**LESSOR ACKNOWLEDGEMENT**

*STATE OF TEXAS*  
*COUNTY OF TARRANT*

On DECEMBER 14, 2010, before me, CAROL ANN BORGES, Notary Public, personally appeared ANTHONY YEAGER, personally known to me (or proved to me on the basis of satisfactory evidence) to the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal. (SEAL)

Carol Ann Borges  
Notary Public



**LESSEE ACKNOWLEDGEMENT**

*STATE OF INDIANA*  
*COUNTY OF ST. JOSEPH*

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared Jacqueline L. Stout, personally known to me (or proved to me on the basis of satisfactory evidence) to the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal. (SEAL)

\_\_\_\_\_  
Notary Public

**LESSOR ACKNOWLEDGEMENT**

*STATE OF* \_\_\_\_\_  
*COUNTY OF* \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal. (SEAL)

\_\_\_\_\_  
Notary Public

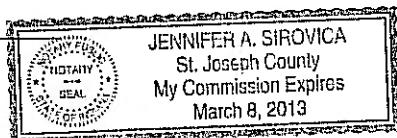
**LESSEE ACKNOWLEDGEMENT**

*STATE OF INDIANA*  
*COUNTY OF ST. JOSEPH*

On December 13, 2010, before me, JENNIFER A. SIROVICA Notary Public, personally appeared Jacqueline L. Stout, personally known to me (or proved to me on the basis of satisfactory evidence) to the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal. (SEAL)

JENNIFER A. SIROVICA  
Notary Public



**Exhibit "A"**

**Description of Premises**

**25' x 75' TRACT OF LAND/LEASE AREA**

Being a tract of land situated in the N.H. Carroll Survey, Abstract No. 264, Tarrant County, Texas same being out of and a portion of that certain tract of land to the City of Westworth Village by General Warranty Deed dated August 26, 2005, and recorded in Document No. D205254864, Deed Records, Tarrant County, Texas, and being more particularly described by metes and bounds as follows:

Commencing at a 1/2" iron rod found for the intersection of the south line of said City of Westworth Village tract with the east right-of-way line of Burton Hill Road, , also being the northwest corner of that certain tract of land conveyed to Andrea C. Harkins by Special Warranty Deed dated April 9, 1985 and recorded in Volume 8177, Page 2279, Deed Records, Tarrant County, Texas;

Thence run N 89°47'39" E along the south line of said City of Westworth Village tract for a distance of 728.29 feet to a point; thence, leaving said boundary line, run N 06°02'08" W a distance of 0.14 feet to a fence corner and the POINT OF BEGINNING; thence run N 06°02'08" W a distance of 25.58 feet to a fence corner; thence run N 85°14'09" E a distance of 75.34 feet to a fence corner; thence run S 04°54'19" E a distance of 25.57 feet to a fence corner; thence run S 85°14'09" W a distance of 74.83 feet to the POINT OF BEGINNING. Said described parcel containing 0.044 acres or 1,918 square feet of land, more or less.

**20' ACCESS & UTILITY EASEMENT**

Being a tract of land situated in the N.H. Carroll Survey, Abstract No. 264, Tarrant County, Texas, same being out of and a portion of that certain tract of land conveyed to City of Westworth Village by General Warranty Deed dated August 26, 2005, and recorded in Document No. D205254864, Deed Records, Tarrant County, Texas, and being more particularly described by metes and bounds as follows:

Commencing at a 1/2" iron rod found for the intersection of the south line of said City of Westworth Village tract with the east right-of-way line of Burton Hill Road, also being the northwest corner of that certain tract of land conveyed to Andrea C. Harkins by Special Warranty Deed dated April 9, 1985 and recorded in Volume 8177, Page 2279, Deed Records, Tarrant County, Texas;

Thence run N 89°47'37" E along the south line of said City of Westworth Village tract for a distance of 728.29 feet to a point; thence, leaving said boundary line, run N 06°02'08" W a distance of 10.87 feet to the POINT OF BEGINNING of a 20 foot wide Access & Utility Easement, lying 10 feet each side of a centerline, described as follows: thence run N 89°18'24"

W a distance of 727.28 feet to the said east right-of-way line of Burton Hill Road, also being the POINT OF ENDING.

The bounds of said described easement to adjoin lease area and right-of-way contiguously and contain 0.334 acres or 14,545.5 square feet more or less. SUBJECT to any and all rights-of-way over and across the above described easement.